

(9) Fail to maintain a shark in the form specified in §§ 600.1204(h) and 635.30(c) of this chapter.

(b)(1) For purposes of this section, it is a rebuttable presumption that shark fins landed by a U.S. or foreign fishing vessel were taken, held, or landed in violation of this section if the total weight of the shark fins landed exceeds 5 percent of the total dressed weight of shark carcasses on board or landed from the fishing vessel.

(2) For purposes of this section, it is a rebuttable presumption that shark fins possessed by a U.S. fishing vessel were taken and held in violation of this section if the total weight of the shark fins on board, or landed, exceeds 5 percent of the total dressed weight of shark carcasses on board or landed from the fishing vessel.

[67 FR 6200, Feb. 11, 2002. Redesignated at 69 FR 53361, Sept. 1, 2004, as amended at 73 FR 40707, July 15, 2008]

§ 600.1204 Shark finning; possession at sea and landing of shark fins.

(a)(1) No person aboard a U.S. fishing vessel shall engage in shark finning in waters seaward of the inner boundary of the U.S. EEZ.

(2) No person aboard a foreign fishing vessel shall engage in shark finning in waters shoreward of the outer boundary of the U.S. EEZ.

(b) No person aboard a U.S. fishing vessel shall possess on board shark fins harvested seaward of the inner boundary of the U.S. EEZ without the corresponding carcass(es), as may be determined by the weight of the shark fins in accordance with § 600.1203(b)(2), except that sharks may be dressed at sea.

(c) No person aboard a U.S. or foreign fishing vessel (including any cargo vessel that received shark fins from a fishing vessel at sea) shall land shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without corresponding shark carcasses, as may be determined by the weight of the shark fins in accordance with § 600.1203(b)(1).

(d) Except as provided in paragraphs (g) and (h) of this section, a person who operates a U.S. or foreign fishing vessel and who lands shark fins harvested in waters seaward of the inner boundary

of the U.S. EEZ shall land all fins and corresponding carcasses from the vessel at the same point of landing and shall have all fins and carcasses weighed at that time.

(e) A person may not purchase, offer to sell, or sell shark fins taken, landed, or possessed in violation of this section.

(f) Upon request, a person who owns or operates a vessel or a dealer shall allow an authorized officer or any employee of NMFS designated by a Regional Administrator access to, and/or inspection or copying of, any records pertaining to the landing, sale, purchase, or other disposition of shark fins and/or shark carcasses.

(g) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit and who lands shark in an Atlantic coastal port must have all fins weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing. Such weights must be recorded on the "weighout slips" specified in § 635.5(a)(2) of this chapter.

(h) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit and who lands shark in or from the U.S. EEZ in an Atlantic coastal port must comply with regulations found at § 635.30(c) of this chapter.

(i) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall engage in shark finning.

(j) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall possess on board shark fins without the fins being naturally attached to the corresponding carcass(es), although sharks may be dressed at sea.

(k) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall land shark fins without the fins being naturally attached to the corresponding carcass(es).

(l) A dealer may not purchase shark fins, from an owner or operator of a fishing vessel issued a Federal Atlantic commercial shark permit who lands shark in an Atlantic coastal port, unless such fins were naturally attached to the corresponding carcass at the

time of landing and their combined wet weight is less than 5 percent of the dressed weight of the corresponding carcass(es).

[67 FR 6200, Feb. 11, 2002. Redesignated at 69 FR 53361, Sept. 1, 2004, as amended at 73 FR 40707, July 15, 2008; 75 FR 30524, June 1, 2010]

Subpart O—Limited Access Privilege Programs

AUTHORITY: 16 U.S.C. 1801 *et seq.*

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§§ 600.1300–600.1309 [Reserved]

§ 600.1310 New England and Gulf of Mexico Individual Fishing Quota Referenda.

(a) *Purpose and scope.* This section establishes procedures and guidelines for referenda to be conducted on Individual Fishing Quota (IFQ) program proposals developed by the New England Fishery Management Council (NEFMC) and the Gulf of Mexico Fishery Management Council (GMFMC). These procedures and guidelines also apply to IFQ program proposals developed by NMFS for fisheries under the jurisdiction of the NEFMC or GMFMC, except for certain provisions that only apply to a fishery management council. This section provides guidance on developing voter eligibility and vote weighting, and establishes general procedures to ensure referenda are conducted in a fair and equitable manner.

(b) *Initiating IFQ referenda.* (1) The NEFMC and the GMFMC shall not submit, and the Secretary shall not approve, an FMP or FMP amendment that would create an IFQ program until the IFQ program proposal, as ultimately developed, has been approved by a referendum of eligible voters. Paragraph (h) of this section provides criteria for determining the outcome of IFQ referenda.

(2) To initiate a referendum on a proposed IFQ program:

(i) The relevant Council must have held public hearings on the FMP or FMP amendment in which the IFQ program is proposed;

(ii) The relevant Council must have considered public comments on the proposed IFQ program;

(iii) The relevant Council must have selected preferred alternatives for the proposed IFQ program;

(iv) The chair of the Council with jurisdiction over such proposed IFQ fishery must request a referendum on the proposed IFQ program in a letter to the appropriate NMFS Regional Administrator;

(v) The letter requesting initiation of a referendum must recommend voter eligibility criteria that are consistent with the applicable requirements of paragraph (c)(1) of this section and may also include recommended criteria for vote weighting. The letter must provide the rationale supporting the Council's recommendation, as well as such additional information and analyses as needed, consistent with applicable law and provisions of this section. If a Council recommends vote weighting criteria, the letter should fully describe the rationale for and the expected effects of such weighting on the referendum;

(vi) NEFMC referenda initiation letters must: recommend criteria that are consistent with paragraph (c)(2)(iii) of this section for NMFS to use in determining the eligibility of other fishery participants to vote in the referendum; include the minimum percentage of a crew member's total income that must have been earned during the eligibility periods in the proposed IFQ fishery as discussed in paragraph (c)(2)(ii) of this section; and include criteria for "referendum eligible vessels" as described in paragraph (c)(2)(i) of this section; and

(vii) GMFMC letters initiating referenda of multispecies permit holders in the Gulf of Mexico must include recommended criteria to be used in identifying those permit holders who have substantially fished the species to be included in the proposed IFQ program, along with alternatives to the recommendation, and supporting analyses. Guidelines for developing such recommendations are provided at paragraph (c)(3) of this section.

(3) Following a referendum that has failed to approve the IFQ proposal, any request from a Council for a new referendum in the same fishery must include an explanation of the substantive changes to the proposed IFQ program